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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,269	04/13/2004	Johannes Kocher	16690	3482

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FRASER CLEMENS MARTIN & MILLER LLC
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EXAMINER

COLON SANTANA, EDUARDO

ART UNIT	PAPER NUMBER
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2837

NOTIFICATION DATE	DELIVERY MODE
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05/01/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/823,269

Applicant(s)

KOCHER ET AL.

Examiner

Eduardo Colon-Santana

Art Unit

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-15 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-850)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Individual Patent Application
- 6) ☒ Other: Detailed Action

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/28/2008 has been entered.
2. Applicant's amendment with respect to claims 1, 10 and 12 has been considered, but are still not persuasive.

Drawings

3. The replacement sheets of drawings were received on 1/07/2008. These replacement sheets of drawings are acceptable.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7 and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Gagnon et al. U.S. Patent No. 5,086,881.

Referring to claims 1, 2 and 12, Gagnon et al. discloses an elevator driven by a flat linear motor as claim (see all figures and

respective portions of the specification). Gagnon further discloses in figures 1-3, a drive having a linear motor (12) that includes a secondary part (28) positioned between a first primary part (30) and second primary part (32), wherein the primary parts are movable relative to one another (see figures 2 and 3), and toward and away from one another, wherein a compensating means (68) carries the primary parts and acts by a compensating normal force against an attractive normal force between each of the primary parts (30, 32) and the secondary part (28) (see Col. 2, lines 50-53; Col. 3, lines 40-51 and figures 1-6).

As to claims 3, 4 and 7, Gagnon et al. discloses a primary assembly together with the primary parts in which at least one guide element (70, 72) having an attached setting means to guides the drive along the secondary part and in addition move the guide elements closer or farther to the secondary element. Furthermore, Gagnon discloses that brake elements are inherently included in the linear motor (see Col. 2, lines 45-47 and Col. 5, lines 41-47). Moreover, the setting elements do not move the compensation means (68) towards or away from the secondary part.

Referring to claim 5, Gagnon et al. disclose that each guide roller is utilized to maintain an air gap between each primary element (30, 32) and the secondary element (28) (see Col. 3, lines 37-39, lines 44-47).

As to claim 6, it is well-known in the art of linear motors used in elevator systems that the width of the air gaps is at a maximum and

that the attractive normal force is small when the guide elements guides the drive (primary parts) into contact with the secondary part and vice versa if the brake elements keep the drive (primary parts) in contact with the secondary part.

Referring to claim 9 it is well known in the art to stack more than one linear motor in series in an elevator shaft.

As to claims 10 and 11, the method steps are inherent in the product structure of claims 1 and 6 above. Further discussion is omitted.

Referring to claim 13, Gagnon et al. discloses in figure 1, an elevator car (14) and a drive that drives a counterweight (34) directly.

As to claim 14, Gagnon et al. depicts from figure 1, an elevator car (14) and the counterweight (34) are connected by way of at least one rope (16), wherein the drive moves the elevator and the counterweight with a 2:1 slinging.

Referring to claim 15, Gagnon depicts from figure 1, a secondary part (28) extending over the entire length of a shaft.

Allowable Subject Matter

5. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed on 2/28/2008 have been fully considered but they are still not persuasive.

It is believed that the prior art of record still reads on the claims as currently amended.

In regards to applicant's arguments that Gagnon does not teach or describe having a linear motor wherein the primary parts are movable relative to one another is not persuasive. Even though, Gagnon may describe that the primary parts are welded to the mainstays, this does not preclude the primary parts to move relative to one another as within the secondary supports (20) with the assistance of guide rollers (70, 72) as shown in figures 2 and 3. Additionally, the portion that applicant argues in Col. 3 and 4 of Gagnon are with respect to the adjacent segments of the secondary parts not the primary parts as claimed. Additionally applicant is directed to figure 1, which clearly depicts the linear motor (12) moving relative toward and away from the secondary part (28).

The assumption that Gagnon forms a unitary rigid structure in which the primary parts are fixed relative to each other and not movable relative to one another is not persuasive. Figures 1-3, clearly depicts the primary parts (30, 32) moving relative from one another within the **stationary** (emphasis added) secondary part (28).

With regards to the interview conducted on February 6, 2008, the examiner clearly pointed out that the claims do not specify that the primary parts (1, 1' and/or 2, 2') are the ones that move relative to

one another, or that each primary part (1, 1' and/or 2, 2') moves towards and away from one another. It is noted that this features upon which applicant relies are not clearly recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. The prior art made of record in form 892 and not specifically relied upon are considered pertinent to applicant's disclosure to further show the general state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo Colon-Santana whose telephone number is (571)272-2060. The examiner can normally be reached on Monday thru Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-2800 X.37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eduardo Colon-Santana/
Patent Examiner
Art Unit 2837

/ECS/
April 21, 2008
/Lincoln Donovan/
Supervisory Patent Examiner, Art Unit 2837